BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Application of Pacific Gas and Electric Company for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, And Recovery of Associated Costs Through Proposed Ratemaking Mechanisms (U 39 E)	Application 16-08-006 (Filed August 1, 2016)

PROTEST OF SONOMA CLEAN POWER AUTHORITY TO APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) FOR APPROVAL OF THE RETIREMENT OF DIABLO CANYON POWER PLANT, IMPLEMENTATION OF THE JOINT PROPOSAL, AND RECOVERY OF ASSOCIATED COSTS THROUGH PROPOSED RATEMAKING MECHANISMS

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I. INTRODUCTION

The Sonoma Clean Power Authority ("SCPA") respectfully submits this protest to PG&E's Application for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, and Recovery of Associated Costs through Proposed Ratemaking Mechanisms, submitted August 11, 2016.

SCPA is the second operational CCA program in California, and currently serves about 195,000 accounts encompassing a population of approximately 450,000, which includes all of Sonoma County except for the City of Healdsburg, which has its own municipal utility. SCPA is

governed by a nine-member Board of Directors comprised of appointees from the participating cities and the County of Sonoma. SCPA provides its customers with stable and competitive electric rates, providing a power portfolio with a higher renewable content (and lower greenhouse-gas emissions) than the incumbent utility. The reduction of greenhouse gas emissions in Sonoma County is one of the reasons for SCPA's formation, under the joint powers agreement that formed SCPA.

SCPA provides two products to its customers. SCPA's default "CleanStart" service – which was 36% renewable (as defined by California's Renewable Portfolio Standard), with an additional 41% coming from carbon-free generation sources (mostly large hydroelectric facilities) in 2015. SCPA's "EverGreen" service consists of 100% renewable (RPS-eligible) resources located in Sonoma County. SCPA does not rely on "unbundled" Category 3 Renewable Energy Credits for RPS or GHG reporting purposes. SCPA is committed to procuring a balanced portfolio of renewables, and SCPA's two most recent long-term power purchase agreements have resulted (or will result) in the creation of incremental renewable energy facilities: the new 70 MW Mustang Solar Power Project in Kings County, and the re-powered 46 MW Golden Hills Wind Project in the Altamont pass area of Alameda County.

SCPA is dedicated to continuing to reduce the GHG intensity of its portfolio, and implementing innovative programs to reduce GHG emissions and facilitating the continued growth of renewable energy in California.

II. SUMMARY OF APPLICATION

PG&E seeks approval for rate-recovery of unprecedented amounts of EE and GHG-free resources, to be procured outside of established Commission processes and oversight. PG&E cites its economically prudent decision to retire the Diablo Canyon Power Plant ("DCPP" or

"Diablo Canyon") at the end of its current license as justification for its extraordinary request. According to PG&E's analysis, DCPP's baseload generation will not be necessary after 2025, and shutting down the facility will reduce over-generation and save its ratepayers money. PG&E's proposal to mitigate the impacts of the retirement of Diablo Canyon on its employees, and on the economy of San Luis Obispo County and surrounding regions is reasonable. And we commend PG&E's proposal to use energy efficiency programs and renewable/GHG-free generation in lieu of fossil-based generation if additional resources are needed following the retirement of Diablo Canyon. For these reasons, SCPA does not oppose the retirement of DCPP itself, nor do we oppose contributing towards our fair share of the estimated $3.8 billion in nuclear decommissioning costs.

That said, the Application and PG&E's arguments in favor of the application have significant flaws, which should preclude the Commission from approving the Application in its current form. These flaws are discussed below.

III. THE RETIREMENT OF DIABLO CANYON HAS BEEN ANTICIPATED FOR SOME TIME; THERE IS NO URGENCY THAT JUSTIFIES IGNORING THE COMMISSION'S EXISTING PROCUREMENT PROCESSES

State regulators and the grid operator have long been planning for Diablo's retirement at the end of its current operating licenses in 2024/25; its retirement is not an unexpected event that requires an urgent response outside of established Commission processes. The 2016 common planning assumptions jointly developed by the CPUC, California Energy Commission, and the California ISO – which are used to evaluate future needs for generation and transmission – assumed Diablo's retirement at the end of its current operating license as the default case.[1] In fact, the prior assumptions used in the 2014 long-term procurement plan

[1] Assigned Commissioner's Ruling adopting Assumptions & Scenarios for use in the CAISO's 2016-17 Transmission Planning and future Commission Proceedings, available online at:

(LTPP) evaluated the impact of Diablo's retirement at an even earlier date of 2023.[2] PG&E cites San Onofre's emergency shut down as a precedent for approving this Application. However, that was an unforeseen event, and even in that urgent case, the need for replacement generation was evaluated through the LTPP proceeding. There is no need to rush into procurement of "replacement" resources -- PG&E, the Commission, and other and state regulators have eight years to develop a procurement plan to address any needs resulting from Diablo's retirement.

IV. THERE IS NO NEED FOR IMMEDIATE APPROVAL OF RESOURCE PROCUREMENT TO ENSURE RELIABILITY OR MEET ENVIRONMENTAL MANDATES

PG&E has not shown that the additional energy efficiency and renewable/GHG-free resources for which it seeks pre-approval in the Application are needed. The two dominant procurement proceedings of the past decade, the Long-Term Procurement Plan (LTPP) and Renewable Portfolio Standard (RPS) authorized utility procurement to ensure reliability (in the case of LTPP) and compliance with environmental mandates (in the case of RPS). The Application before the Commission does not demonstrate either of these cases. As reflected in Table 2-2 on page 2-10 of PG&E's testimony detailing the most-likely "reference" case, between 2017 and the proposed Diablo Canyon retirement date (2025), load migrating from PG&E to community choice aggregators and direct access providers will increase by 19,836 GWh to a total of 34,273 GWh. This is well above Diablo Canyon's annual 17,000 GWH production. Given the time horizon over which PG&E is making its estimates, it may well be that there will be no need for any replacement of generation lost through DCPP's retirement.

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http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M162/K005/162005377.PDF.

[2] Assigned Commissioner's Ruling adopting Assumptions & Scenarios for use in 2014 Long-term procurement plan and 2014-215 CAISO Transmission Planning Process, available online at: http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M088/K489/88489746.PDF

In any case, without evaluating needs prior to issuing an RFO, neither the Commission nor PG&E will have the relevant information from which to make informed decisions.

V. PROCUREMENT OUTSIDE OF THE INTEGRATED RESOURCE PLAN PROCESS IS UNLIKELY TO MEET THE GOALS OF SB 350

The Application seeks approval to procure a pre-determined quantity and quality of resources outside of the Integrated Resource Plan ("IRP") process. SB 350 identified a portfolio driven approach as the most efficient path to meet climate goals while minimizing ratepayer cost and ensuring reliability. As codified, it directs the Commission to "Identify a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy in a cost-effective manner."[3] The Commission's ongoing work to develop an IRP process is the appropriate mechanism to realize this goal. Granting an individual utility cost-recovery for a suite of pre-determined resources, sized and sited without regard to the larger IRP process, is unlikely to result in a portfolio that is balanced, reliable, and integrates renewables in the most cost-effective manner. Indeed, the type of one-off procurement sought in this Application is precisely what SB 350 sought to avoid. Load serving entities and other stakeholders should focus their efforts on contributing to the Commission's successful development of an IRP framework that can identify the best portfolio of resources to balance the multiple goals specified in the Public Utilities Code.

VI. THE APPLICATION'S APPROACH TO PROCUREMENT MAY NOT REDUCE GHG EMISSIONS

Over-generation and the resulting curtailment of renewable energy is the likely result of

[3] California Public Utilities Code Section 454.51(a).

procuring additional energy from non-dispatchable sources. PG&E notes that retiring Diablo Canyon will reduce over-generation significantly, between 850-3,500 GWh in 2030. This is because Diablo is a "baseload" generator that produces energy whether it is needed or not. However, procuring over 4,500 GWh of generation from resources which, like Diablo, are non-dispatchable will likely contribute to the over-generation their planned retirement would help avoid. PG&E proposes to procure the replacement generation *before* Diablo retires (PG&E's application suggests RFOs in 2018 and 2019 for Tranches 1 and 2, respectively), which will result in a minimum of 2,000 GWh of EE operating in concert with Diablo, further exacerbating over-generation and resulting in curtailment of renewable resources. The unfortunate result is that an incremental GWh of EE could require curtailing an incremental GWh of solar to balance supply and demand, thus negating any environmental benefit and simply stressing the grid at a significant cost to ratepayers. Without evaluating the resources requested in the Application in the context of the broader portfolio, it is nearly impossible to evaluate to how the new resources will impact the grid. For example, will these non-dispatchable GWhs offset fossil generation, or will they require additional integration resources – often gas fired generators – to balance the system? This Application contains no guarantee of reduced greenhouse gases, and in fact opens the door for pre-approval of any integration resources needed as a result.

VII. THE PROPOSED ENERGY EFFICIENCY PROCUREMENT IS INCONSISTENT WITH COMMISSION POLICY AND RECENT GUIDANCE

The Application's proposed energy efficiency procurement is inconsistent with Commission policy and recent guidance. Despite the existence of established Commission procedures governing the development, funding, roll-out, and evaluation of energy efficiency ("EE") programs by IOUs such as PG&E, the Application asks the Commission to ignore

them by seeking pre-approval of 2,000 gigawatt-hours of EE load reduction, to be obtained through an RFO process, or from new PG&E EE programs not using the Commission's preferred test for cost effectiveness, at a pre-approved cost of almost $1.3 billion.[4] PG&E makes no showing of why it should be allowed to procure these EE resources outside of the usual Commission processes. In addition, the application requests compensation for PG&E shareholders (via the Energy Savings Performance Incentive) for these resources. This 2,000 GWh is nearly four times the "aggressive but achievable" EE program goals approved by the Commission last year, which average 556 GWh annually from 2016-2024.[5] While procurement far in excess of recently established goals is admirable, an undertaking of this magnitude should be integrated with existing EE programs and subject to corresponding requirements to protect ratepayers.

VIII. DEPARTED CCA CUSTOMERS SHOULD NOT HAVE TO PAY FOR PG&E'S VOLUNTARILY-PROCURED FUTURE GENERATION RESOURCES

Under the CCAs' enabling statute (AB 117, generally codified as Public Utilities Code §366.2 and §366.3), CCAs are authorized and required to take over generation procurement activities from the incumbent IOUs for "non-opted-out" loads within the CCAs' jurisdictions. Included in the powers given to CCAs is the procurement authority provided by Public

[4] CPUC EE Policy Manual, Version 5 requires that EE show net benefits in PAC and Total Resource Cost Tests, with the latter being the "primary indicator of cost effectiveness." Available online at: http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Demand_Side_Management/EE_and_Energy_Savings_Assist/EEPolicyManualV5forPDF%20(1).pdf

[5] CPUC Decision D.15-10-028, available online at: http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M155/K511/155511942.pdf.

Utilities Code §366.2(a)(5): "A community choice aggregator shall be solely responsible for all generation procurement activities on behalf of the community choice aggregator's customers, except where other generation procurement arrangements are expressly authorized by statute." PG&E's proposal to impose a "Clean Power Charge" on CCA customers to pay for the costs of future PG&E generation resources is wholly inconsistent with the fact that, by law, CCAs are solely responsible for their own generation procurement.

The CCA enabling statute permits the imposition of "nonbypassable" charges on CCAs or their customers only in specific limited circumstances. Four of those relate to charges for generation resources *previously procured* by an IOU or by the Department of Water Resources.[6] The final circumstance primarily addresses specific programs – such as energy efficiency programs – that are available to both IOU and CCA customers (Public Utilities Code §§366.2(k)(1) and (k)(2)). The proposed "Clean Energy Charge" does not fall into either of these categories. It is not a charge being sought by PG&E for already-acquired generation resources. Nor is it a charge for a "program" in which customers of CCAs can "participate …on an equal basis with the customers of an electrical corporation." (Public Utility Code §366.2(k)(1).) This leaves only one possibility: "nonbypassable charges for goods, services, or programs that …benefit either, or where applicable, both, the customer and the community choice aggregator serving the customer." (Ibid.)

PG&E must shoehorn the "Clean Energy Charge" into this catch-all category, but it is evident from the language that it does not fit. First, the catch-all requires that there a "good,

[6] Public Utilities Code §§366.2(d), (e), (f), and (h). These charges further the statutory directive that "The implementation of a community choice aggregation program shall not result in a shifting of costs between the customers of the community choice aggregator and the bundled service customers of an electrical corporation." Public Utilities Code §366.2(a)(2).

service, or program" that benefits CCA customers. PG&E claims that "providing GHG-free energy to replace Diablo Canyon when it retires" (Testimony at 5-1, lines 18-19) provides "regional or statewide benefits, such as the reduction of GHG emissions or other environmental benefits enjoyed by all electric distribution customers" (Id. at 5-12, lines 10-12) that justify imposition of PG&E's future generation costs on already-departed CCA customers. However, it is questionable that these generalized benefits are the kind of "goods, services, or programs" that were contemplated by section 366(k)(1). As noted, that phrase was intended to encompass programs like energy efficiency programs or other specific programs that CCA customers can take advantage of just as IOU customers can.

Moreover, the concept of "indifference" is a two-way street; it protects CCA customers as well as PG&E bundled customers: "Bundled retail customers of an electrical corporation shall not experience any cost increase as a result of the implementation of a community choice aggregator program. The commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load." (Public Utilities Code §366.3, emphasis added.) By definition, none of the future generation resource costs PG&E seeks to recover with the "Clean Energy Charge" could be considered as "incurred on behalf of [SCPA's] departing load."

PG&E places much emphasis on the nonbypassable charge authorized by the Commission in connection with Combined Heat and Power ("CHP") facilities, from which IOUs were required to take power pursuant to AB 1613. But there are critical differences between the charge approved in connection with that proceeding (R. 08-06-024) and the charge proposed by PG&E in this proceeding. Most significantly, the CHP proceeding involved a program expressly authorized by the Legislature, in which it expressly authorized

the Commission to assess a nonbypassable charge on CCAs.[7] In addition, the CHP proceeding involved an obligation placed on the IOUs to purchase excess power from CHP resources as a means of reducing GHGs by replacing older, less efficient facilities.

In contrast, here there is no express statutory basis for the imposition of the nonbypassable charges sought by PG&E. Perhaps more significantly, in the present case PG&E is making an entirely voluntary decision to acquire future GHG-free generation resources. While it may be appropriate for the Legislature to have determined in the case of required CHP purchases that the costs be more widely shared among all distribution customers, there is nothing in the present case to justify such a cost-sharing, particularly given the lack of statutory basis.

In fact, PG&E's argument, if accepted, would result in a perpetual cost-shifting to non-bundled customers for all of its future generation resources. This is because almost all new generation facilities will have some "greater societal benefit" associated with them. At a minimum they will have an economic benefit (through the jobs created in their construction), and because technology continues to become more efficient, almost all new generation facilities will also be more environmentally beneficial than similar older technology.

Finally, looking at this issue from a bigger-picture perspective, it is important to remember that one of the reasons for the passage of the CCA enabling statute was to engender

[7] Public Utilities Code §2841(e): "The costs and benefits associated with any tariff or contract entered into by an electrical corporation pursuant to this section *shall be allocated to all benefiting customers*. For purposes of this section *"benefiting customers" may, as determined by the commission, include* bundled service customers of the electrical corporation, customers of the electrical corporation that receive their electric service through a direct transaction, as defined in subdivision (c) of Section 331, and *customers of an electrical corporation that receive their electric service from a community choice aggregator*, as defined in Section 331.1." (Emphasis added.)

further competition in the generation resource market in California. IOUs were to remain responsible for (and be paid for the costs of) the distribution and transmission systems, but IOUs were expected to compete with CCAs with respect to pure generation resources. In the case of SCPA, it has put together a generation portfolio of 36 percent RPS and 77 percent GHG-free energy in 2015, with a trajectory to reach 50 percent RPS by 2020, ten years ahead of the State's requirement. SCPA's customers will not benefit from PG&E's proposed lower-GHG-emission "replacement" generation resources; SCPA already has them.

The Commission should deny PG&E's request to impose the "Clean Energy Charge" on CCA customers.

IX. CONCLUSION

SCPA supports PG&E's economically and environmentally prudent decision to forego relicensing of Diablo Canyon beyond its existing license term. It is not needed for reliability or environmental compliance, and contributes to curtailment of renewable resources. However, this planned retirement of a 40 year old nuclear generator which rests on a fault line should not be used to justify PG&E's request to receive pre-approval for unprecedented procurement outside of established Commission processes. As the Application notes, the overall impact of DCPP's retirement, absent PG&E's proposed method to acquire any necessary "replacement" power, will be a *reduction* in PG&E's costs and a *reduction* in PG&E's rates. However, if maintaining the planned retirement schedule of Diablo does somehow result in a cost shift to bundled customers, the Power Change Indifference Adjustment (PCIA) mechanism in in place to ensure equity between bundled and non-bundled customers.

Approval of the procurement requested by PG&E would be at odds with Commission policy and statute, and would undercut the goals of SB350. Granting this application would set

a dangerous precedent, allowing any utility that retires an aging, uneconomic generator as scheduled to obtain pre-approval for a host of resources selected via utility RFO instead of holistic planning. SCPA respectfully requests that the Commission deny PG&E's application to the extent it seeks approval to procure resources, or to impose on SCPA or other CCAs any nonbypassable charges, and require PG&E to address any future resource needs through customary, appropriate Commission proceedings.

X. SERVICE OF PROCEEDING DOCUMENTS

The individual below should be placed on the service list for receipt of all correspondence, pleadings, orders and notices in this proceeding.

Respectfully submitted,

By: */s/ Steven S. Shupe*
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